



# SBA Information Notice

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**TO:** All SBA Employees

**CONTROL NO.:** 5000-1003

**SUBJECT:** New Market Tax Credits

**EFFECTIVE:** 11/29/2006

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On October 4, 2006, SBA published a notice in the Federal Register announcing the New Markets Tax Credit (NMTC) Pilot Loan Program. Under this Program, certain Community Development Entities will be able to purchase a participation interest in a *SBAExpress* or Community Express 7(a) loan up to 90 percent of the gross loan amount as part of their investment in low-income communities under the New Markets Tax Credit Program administered by the U.S. Department of Treasury. You may access the entire text of the Federal Register notice at [www.access.gpo.gov/su\\_docs/fedreg/frcont06.html](http://www.access.gpo.gov/su_docs/fedreg/frcont06.html).

The purpose of this notice is to announce the publication of a new “Frequently Asked Questions” fact sheet on SBA’s New Markets Tax Credit Pilot Loan Program. The fact sheet is attached.

SBA district offices are asked to notify 7(a) Lenders of this Notice.

SBA district offices and processing/servicing centers with questions on this Notice may forward their questions to John Wade via email at [john.wade@sba.gov](mailto:john.wade@sba.gov).

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Janet A. Tasker  
Acting Associate Administrator  
for Financial Assistance



# Frequently Asked Questions

## SBA's New Markets Tax Credit Pilot Loan Program

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### **SBA's New Markets Tax Credit Pilot Loan Program: Frequently Asked Questions and Answers**

#### ***Why did SBA launch the New Markets Tax Credit Pilot Loan Program?***

The U.S. Small Business Administration launched the New Markets Tax Credit (NMTC) Pilot Loan Program to increase lending to small businesses located in economically distressed communities or "New Markets." The pilot program will help small businesses by enabling Community Development Entities (CDEs) to combine the benefits of both the U.S. Department of Treasury New Markets Tax Credit Program and the SBAExpress or CommunityExpress 7(a) guaranteed loan programs to provide small businesses located in urban and rural communities greater access to financing and business training.

The pilot program, which is only available to 7(a) Lenders making new loans subject to Pre-Loan Agreements with CDEs, waives a regulation that limits a 7(a) Lender's ability to sell any portion of an SBA guaranteed loan to anyone other than another 7(a) Lender. The waiver allows CDEs with New Markets Tax Credit allocations to purchase up to 90 percent of SBAExpress or CommunityExpress 7(a) loans up to \$150,000 made to New Markets Tax Credit (NMTC) "qualified" businesses in low-income communities as defined in §45(d)(2) of the IRS Tax Code. These new loans are guaranteed by the SBA.

#### ***What loans qualify for the program?***

- ? SBAExpress and CommunityExpress loans up to \$150,000 made after November 3, 2006 are eligible.
- ? Only new loans held in the portfolio of the originating 7(a) Lender and made after November 3, 2006 are eligible.
- ? Only loans subject to a Pre-Loan Agreement between the 7(a) Lender and a CDE will qualify. The Pre-Loan Agreement is described below.

#### ***What loans do not qualify for the program?***

- ? All other SBA 7(a) loans, 504 loans and Microloans are ineligible, and all SBA loans sold on the secondary market are ineligible.

#### ***If I am a 7(a) Lender how can I participate in this program?***

- ? You will need to be a 7(a) Lender approved for participation in either the SBAExpress or CommunityExpress programs.
- ? You will need to work with a CDE with a NMTC allocation. To locate a CDE in a particular geographic area use the following link <http://www.cdfifund.gov/> , then click on Impact We

Make and Searchable Award Database or Profiles of Awards, Sorted by State. For a list of CDEs with FY2006 allocation awards go to: <http://www.cdfifund.gov/docs/nmtc/2006/List.of.Allocatess.FINAL.pdf>

***As a 7(a) Lender what must I need to do to participate in this program?***

- ? You must sign a Supplemental Lender Program Participation Agreement with the SBA Office of Financial Assistance in order to participate in the New Markets Tax Credit Pilot Loan Program. This supplemental agreement provides the guidance and procedures regarding the closing, servicing, sale or liquidation of loans in the pilot.
- ? You will need to enter into a Pre-Loan Agreement with a CDE, as provided for under the “Special rule for loans” in the U.S. Internal Revenue Service, Department of Treasury’s New Markets Tax Credit regulations. 26 CFR § 1.45-D-1(d)(8). This rule says that a loan is treated as made by a CDE, if there is a Pre-Loan Agreement between the loan originator and the CDE, requiring that the CDE purchase the loan from the originating 7(a) Lender within 30 days after the date the loan is made.
- ? As the originating 7(a) Lender you will perform the initial underwriting, close the loan, fulfill the terms of the Pre-Loan Agreement and sell no more than 90% of the loan to the CDE within 30 days after the date the loan is made.
- ? As the originating 7(a) Lender you must retain at least 10% of the principal balance of the loan, excluding any premium amount paid, throughout the entire term of the loan. The 10% of any loan retained by you must be a portion of the unguaranteed interest in the loan.
- ? You and the CDE purchasing the participation interest in the loan must sign an SBA-approved Participation Agreement, which sets forth the rights and obligations of the originating 7(a) Lender and the CDE regarding such matters as payments, servicing of loans, custody of collateral, subsequent sale of the loan, etc.
- ? You as the originating 7(a) Lender are responsible to ensure that the loan will meet the criteria required for a “qualified” NMTC investment. SBA’s waiver of its regulations for purposes of the pilot is based on a requirement that all SBA-guaranteed loans made by the 7(a) Lender under the pilot are eligible for treatment as Qualified Low-income Community Investments (QLCI) under the IRS regulations governing the NMTCs.
- ? As the originating 7(a) Lender you will continue to administer the loans during their entire term and remain responsible for all SBA requirements and payment of fees in accordance with the rules and regulations applicable to the loan program in which the loan was approved.

***If I am a Community Development Entity how can I participate in the program?***

- ? You will need to be a CDE with a NMTC allocation to be eligible to participate in the program.
- ? You will need to work with a SBAExpress or CommunityExpress Lender that makes loans in your NMTC service area. To locate a 7(a) Lender in a particular geographic area contact a SBA District Office.

***As a CDE what must I do?***

- ? You will need to enter into a Pre-Loan Agreement with a 7(a) Lender as provided for under the “Special rule for loans” in the U.S. Internal Revenue Service, Department of Treasury’s New Markets Tax Credit regulations. 26 CFR § 1.45-D-1(d)(8).
- ? As a CDE purchasing participation interests in loans under the pilot, you must sign an SBA-approved Participation Agreement with the originating 7(a) Lender (described above).
- ? You and your investors bear the responsibility of demonstrating to the IRS the eligibility of the loan for the New Markets Tax Credit. SBA makes no legal or tax representation and assumes no responsibility if a loan or the purchase of any participation interest is deemed ineligible for QLCI status.
- ? As a purchasing CDE you may sell your interest in a SBAExpress or CommunityExpress loan made under the pilot only to either the originating 7(a) Lender, another 7(a) Lender or to another CDE with a NMTC allocation. For any subsequent transfers you must use an assignment of participation interest form that is acceptable to SBA.

***What is the duration of the pilot?***

- ? The NMTC Pilot Loan Program expires on September 30, 2011. It may be extended if the Agency determines, based on evaluation that the pilot is achieving its intended purposes. The extension would be for no longer than the date on which no carryover of an unused NMTC allocation can be made. This is currently anticipated to be 2014, unless the U.S. Department of Treasury’s NMTC program is extended by legislation.

***If the pilot ends before I have claimed all of the tax credits?***

- ? If SBA does not make this program permanent or extend this pilot program on or before November 3, 2011, a participating CDE may continue to hold any SBA loan participations in its portfolio and continue to earn the NMTC until the underlying loan is terminated.

***How can I obtain more information?***

- ? To find the SBA District Office nearest you, visit our website at [www.sba.gov](http://www.sba.gov). 7(a) Lenders desiring more information may contact John Wade at the SBA Office of Financial Assistance: [john.wade@sba.gov](mailto:john.wade@sba.gov), (202) 205-7505, and for questions of a general nature contact Peter Jacxsens at the SBA Office of Policy & Planning: [peter.jacxsens@sba.gov](mailto:peter.jacxsens@sba.gov); 202-205-6452.
- ? For information on the New Markets Tax Credit Program please contact the US Department of the Treasury, CDFI Fund at <http://www.cdfifund.gov/>.

*All SBA programs and services are provided on a nondiscriminatory basis.*